



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**22 VAC 40-211 – Resource, Foster and Adoptive Family Home Approval Standards**  
**Department of Social Services**  
May 2, 2008

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### **Summary of the Proposed Amendments to Regulation**

The State Board of Social Services (Board) proposes to promulgate a new, specific, regulation which will address requirements for approval of resource, foster, and adoptive family home providers by local departments of social services (LDSS). These requirements were addressed in 22 VAC 40-770 (Standards and Regulations for Agency Approved Providers) which had rules for all types of agency approved providers. This generic regulation was repealed in 2007.

In addition to re-promulgating some of the rules for foster and adoptive home approval that had been in the regulation that was repealed, the Board also proposes several substantive changes to the requirements. Such substantive changes include the following: 1) changing the definition of infant from up to 24 months to 16 months, 2) establishing the “resource parent” designation, 3) requiring that LDSS obtain DMV driver record check for any resource, foster, and adoptive parents and any other adults in household expected to transport children, 4) requiring foster and resource parent applicants to submit the results of a physical examination performed by a licensed physician within the past 12 months, 5) requiring that the LDSS conduct at least three face-to-face interviews with each applicant, 6) requiring applicants to obtain at least three references from persons who have knowledge of the applicant’s ability, skill, or experience in the provision of services and who is not related to the applicant, 7) requiring that LDSS ensure that each provider receives annual training, 8) prohibiting providers from having children over the age of 16 months sharing a bed, 9) requiring that providers store ammunition in a locked cabinet separate from firearms, 10) requiring LDSS to verify and document that providers protect children from household pets that may be a health or safety hazard, 11) adding language stating

that the provider be able to ensure that they can be responsive the special medical needs, including environmental sensitivities, of the child, 12) requiring that providers keep legible records pertaining to identification, health, education, and safety of the child 13) mandating LDSS to obtain criminal record background checks at least once every 4 years and 14) changing the approval period for providers from 24 to 36 months.

## **Result of Analysis**

The benefits likely exceed the costs for most proposed changes. There is insufficient data to accurately compare the magnitude of the benefits versus the costs for other changes.

## **Estimated Economic Impact**

Under both 22 VAC 40-770 (recently repealed) and this proposed regulation, two foster parents in a home can have up to 8 foster children and one foster parent in a home can have up to four foster children. Infants count as two older children for the purposes of this cap on number of foster children per foster parent. In the recently repealed regulation infant is defined as any child from birth up to 24 months of age. Under this proposed regulation infant is defined as any child from birth up to 16 months of age. Thus children between 17 months of age and 24 months of age count as two children toward the cap under the recently repealed regulation and as one child under the proposed regulation. This proposed change will allow foster parents to accept one additional foster child when one of their current foster children is between 17 months of age and 24 months, or to accept a new foster child between 17 months of age and 24 months when they have room for one additional child. In total this proposed change will moderately increase the capacity to place foster children statewide.

The Board proposes to establish a “resource parent” designation. A “resource parent” is defined as an approved relative or foster family home that agrees to, and is dually approved to, both support reunification and be prepared to adopt the child if the child and family do not reunify. According to the state Department of Social Services (DSS), establishing the resource parent designation will allow the process by which foster parents can become adoptive parents to run more smoothly and quickly, when appropriate. Although DSS expects that most applicants will choose to be resource parents, individual foster parents or families can choose to opt out of the additional approval if they never intend to adopt a child. Because foster parents can opt out of the additional approval requirements that adoptive parent must meet, and because approving a

resource parent is likely less time and resource consuming than having that parent go through two approval processes, this proposal appears to be beneficial without creating any accompanying costs.

Consistent with this regulation, the term “provider” will be used throughout this report to represent resource, foster, and adoptive parents.<sup>1</sup> Recently repealed regulation required that providers who transport children have a valid driver’s license. This proposed regulation specifies that LDSS must obtain DMV a driver record check for any resource, foster, and adoptive parents and any other adults in household expected to transport children and may consider the results in the approval process of the home. According to DSS the driver record checks are provided for free to the LDSS. Specifying in this regulation that the LDSS check driver records will likely increase the frequency that driver records are checked, and will likely increase the frequency that providers with bad driving records are detected. This may on a few occasions result in foster children being removed from dangerous situations. Thus the small addition in time it takes to check driving records is likely exceeded by the benefit in improved safety for children.

Recently repealed regulation required that adoptive parent applicants submit the results of a physical examination performed by a licensed physician within the past 12 months to demonstrate they are possess sufficiently health. This proposed regulation extends this requirement to foster and resource parent applicants. This proposal adds a cost for foster and resource parent applicants, but the cost is likely exceeded by the benefit of eliminated physically incapable applicants.

Recently repealed regulation required that the provider applicants “participate in interviews with the agency.” This proposed regulation requires that the LDSS conduct at least three face-to-face interviews with each applicant. In practice this may result in additional interaction with LDSS staff prior to approval decisions. This can be beneficial in that the additional contact can increase the likelihood that problems could be detected. On the other hand, it increases costs for LDSS that are not already complying with this proposed requirement.

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<sup>1</sup> When referring to 22 VAC 40-770, “provider” indicates foster and adoptive parents only since the resource parent designation does not exist in 22 VAC 40-770.

Under recently repealed regulation and current Board policy, provider applicants are required to provide two references from persons who have knowledge of the applicant's ability, skill, or experience in the provision of services and who are not related to the applicant. This proposed regulation requires three references. Given the great responsibility that providers have for the children in their care, the small costs that applicants incur by acquiring a third reference is outweighed by the benefit of some additional assurance that the applicant is indeed competent.

Recently repealed regulation did not address training. This proposed regulation specifies that LDSS ensure that each provider receives pre-service and annual training. DSS proposes to set areas of competency that must be covered in training but does not propose to specify what training program must be used. According to DSS, most, but not all, LDSS currently do provide training. This proposed regulation also states that DSS will provide opportunities for training on an annual basis at no charge. Depending on the quality of the training, this proposed requirement can potentially be significantly beneficial toward the care of foster and adopted children. The training requirement will create time cost for both staff and providers. DSS's base budget now contains funds for provider training so LDSS offices are unlikely to incur any additional direct costs on account of training requirements.

Recently repealed regulation stated that children of opposite sex should not share a double bed. This proposed regulation states that children over the age of 16 months shall not share a bed. For those localities where the LDSS permit bed sharing, this proposed change will have some impact. This will increase costs for what is hopefully a very small number of providers. The cost is likely exceeded by the benefit of increased rest for affected children. Increased rest will improve affected children's health and ability to learn.

Providers are required to store firearms and ammunition in a locked cabinet that is not accessible to children under recently repealed regulation. The Board proposes to further require that ammunition be stored in a separate locked area. The proposal most likely does moderately decrease the likelihood of firearm accidents involving children. On the other hand, complying with the proposal will make it more difficult for a provider to access loaded firearms if needed to confront an intruder. The estimated benefit of being able to quickly access a loaded firearm for familial protection varies greatly depending upon the analyst. Thus, whether the benefit of a moderate decrease in the likelihood of firearm accidents involving children exceeds the cost of

slower access to a loaded firearm when family members are threatened cannot be accurately estimated at this time.

Recently repealed regulation required that the provider protect their children from household pets which may be a health or safety hazard. Under this proposed regulation, LDSS must request and document verification of provider compliance in the provider record. Documenting verification of provider compliance may produce some additional pressure for compliance, and may moderately increase compliance in practice. This could significantly improve children's health in a small number of circumstances.

The Board proposes to require that providers be able to ensure that they can be responsive to the special medical needs, including environmental sensitivities, of the child. This is implied, but not specified in the recently repealed regulation. Specifying this may encourage LDSS staff to focus more on this aspect of care. To the extent that this happens, this additional language may in a few situations result in improved care for children under foster and adoptive care.

The Board also proposes to require that providers keep written legible records pertaining to identification, health, education, and safety of the child. Specifically, the legible records must include: a) identifying information on the child, b) name, address, and work telephone numbers of the LDSS caseworker, and LDSS after hours emergency contact information, c) name, address, and home and/or work telephone numbers of persons authorized to pick up the child in care, d) name of persons not authorized to call or visit the child, e) educational records, report cards and other school-related documentation, f) medical information pertinent to the health care of the child, g) correspondence related to the child, h) the service plan as well as other written child information provided by the LDSS, and i) placement agreement between the provider and the LDSS. Keeping such organized legible records will cost providers some time, but will be significantly beneficial in providing for affected children's health, education, and safety if the provider should somehow become incapacitated.

Recently repealed regulation specified that the provider and other adult household members who come into contact with children not be convicted of a felony or misdemeanor which jeopardizes the safety or proper care of clients. This proposed regulation specifies that the LDSS complete criminal background checks at the time of application and at least once every

four years. The requirement for rechecks every four years has the potential to significantly affect how often criminal background checks are conducted in practice by LDSS. This may create significant benefits in that more criminal activity by those in households with children is detected; and children can be moved to safer surroundings. According to DSS, criminal background checks cost \$20 per person.

Recently repealed regulation required that foster homes be re-approved every 24 months. This proposed regulation allows foster and resource families to be approved for 36 months before they must be re-approved. This change will likely reduce costs for both LDSS offices and foster families since time and recourses will be spent on this only every three years rather than every two. Since LDSS offices have fairly frequent contact with foster and resource families outside of the approval process, and since foster and resource families will now be subject to ongoing training, this change will likely save money without having the care of affected children be adversely affected.

### **Businesses and Entities Affected**

This proposed regulation affects the 120 LDSS in the Commonwealth, as well foster parents, adoptive parents, resource parents, and children of such parents.

### **Localities Particularly Affected**

This proposed regulation affects all localities.

### **Projected Impact on Employment**

This proposed regulation may necessitate the hiring of a small number of additional staff for LDSS.

### **Effects on the Use and Value of Private Property**

Providers will encounter small additional compliance costs on account of this regulatory action.

### **Small Businesses: Costs and Other Effects**

This regulatory action does not significantly affect small businesses.

### **Small Businesses: Alternative Method that Minimizes Adverse Impact**

This regulatory action does not significantly affect small businesses.

## **Real Estate Development Costs**

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.